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**From:**

**Sent:** Tuesday, October 25, 2011 10:07:57 AM

**To:**

**Cc:**

**Subject:** 6402 Offset after Filing of Release of Lien

Hi I agree. A release of a lien does not, by itself, affect the existence of a tax liability. The tax liability legally exists independent of any procedural action on the part of the Service. An SNOD prepared by the Service may show a tax liability exists (Rev. Rul. 2007-51) which means the liability may be collected by offset without any assessment, notice and demand, or secret lien. A bal due return filed by a taxpayer shows a tax liability exists as well. So, the tax liability for the release year may be offset with another year's overpayment even though to otherwise collect for the year of release the Service might have to issue an SNOD; e.g., if an assessment based on the amount shown on return was abated after a substantive, but now clearly mistaken, determination.

The offset isn't a levy action. If a CDP levy (or lien) action was pending in Tax Court for a liability year, a subsequent offset with another year's overpayment would result in the dismissal of case - because there's no unpaid tax liability upon which the proposed levy (or a lien) could be based - without the court questioning the offset. Greene-Thapedi v. Commissioner, 126 T.C. 1 (2006).